UNITED STATES SUPREME COURT.

delphin—Effect of the Enlargement of the City in 1854 Upon its Execution—The Un-orthodox Religious Views of Mr. Girard— The English Rule as to Superstitious Unce—The Power of the Sovereign as to

Buch Trusts.

Madame Hennette Girard and others vs. The City of Philadelphia.—After decision in the original interact will case, the city of Philadelphia and its imburbs being consolidated by an act of the Legislaure of the State, the heirs revived their claim, contending that the act of consolidation defeated he trust for municipal purposes, by rendering it impossible of execution. The facts of this subsequent flort to defeat the charities of the will appear in he opinion of Mr. Justice Grier, dismissing the bill clow; and as the opinion has never before been mblished, it is given as a statement of the case and he law applicable to it. The heirs of the late tephen Girard have again come into court, claiming a portion of the property devised by him to the try of Philadelphia. The case of Vidal vs. the Excutors of Girard (2 How, 17), has put an end to any either controversy as to the validity of the trusts and the power of the city to execute them, or do the heirs who are complainants in this bill retend to call in question the matters finally and inclusively settled by that case. The facts which re supposed to rehabilitate their claim have octrred since its decision. Admitting that the will of rard entirely excluded them from any claim of the to execute the trusts for municipal purposes, d, as a consequence, the heirs are entitled to that rition of the estate appropriated by the testator for the uses. If it shall appear that the effect the Consolidation act has made it impossible for y to execute the trusts for municipal purposes, d, as a consequence, the heirs are entitled to that rition of the estate appropriated by the testator for the uses. If it shall appear that the effect the Consolidation act is not that which the I alleges, it may be unnecessary to discuss a question whether, if it were, the conquences assumed from it be legitimate, a villed to the restablishment of a college for the education of sequences assumed from it be legitimate. The will of Girard, after sundry bequests to his relatives and friends and to certain specified charities, announces his great and favorite charity to be the establishment of a college for the education of poor orphans. It then proceeds:—"Now I give, devise and bequealh all the residue and remainder of my real and personal estate, &c., unto the Mayor, altermen and citizens of Philadelphia in trust for the several uses, intents and purposes hereinafter mentioned and declared." The attempt to restrain the alienation of the realty, being inoperative, cannot affect the validity of this devise. After many and very special directions as to the college, its construction and government, it further directs that two millions of the personal estate be appropriated to the building; and if this sum should not be sufficient, the remainder should be taken "from the final residuary fund hereinafter expressly referred to," andjwhich is found in section twenty-four as follows:—"And as it regards the remainder of said residue of my personal estate, to invest the interest and income thereof, from time to time, so that the whole shall be a permanent fund, and apply the income of said rund, first, to the further improvement and maintenance of the aloresaid college, as directed in the last paragraph of the twenty-first clause of this my will. Second—To enable the Corporation of the city of Philadelphia to provide more extensively than they now do for the security of the inhabitants of the said city by a competent police, including a sunfacient number of watchinen really suited to the purpose; and to this end recommend a division of the city into watch districts, or four parts, each under a proper head. Third, To enable the said Corporation to improve the city property and the general appearance of the city property and the general appearance of the city into watch districts, or four parts, each under a proper head. Third, To enable the said Corporation to improve the city property and the gene ose burdens upon it without its consent. In this case the Corporation has assented to accept the mages, assume the burdens and perform the duties osed upon it; and it is difficult to conceive how yean have forfeited their right to the charities of the law makes it their duty to administer. Objects of this testator's charity remain the se while the city, large or small, exists; trust is an existing and valid one; trustee is vested by law with the test and the fullest power and authority to cut the trust. Whatever the lears or fancy of complainants may be as to the moral ability of covergrown Corporation, there is no necessary or iral inability which prohibits it from administer-his charity as faithfully as it could before its inset. In fact, it is a matter in which the commants have no concern whatever, or any right to revene. If the trust is not not represent the trust of the soverign may require the ts to compet a proper execution. In the case of it, the Supreme Court says that, "If the trusts in themselves walld, in point of law, it is plain mether the heirs of the testator nor any other are person would have any right to inquire or concest the right of the Corporation ake the property or execute the trust, would exclusively belong to the State, parens patrics, and its sole discretion," is not an assertion that the Legislature as as patrics, may interfere by retrospective acts.

this would exclusively belong to the State, as parens patrice, and its sole discretion." This is not an assertion that the Legislature as parens patrice, may interfere by retrospective acts, to exercise or pres power, which has become so odious from its application in England to what were called superstitions uses, Baxtor's case (Vernon) and other similar onces, cannot be precedents, where there is no established church which treats all dissent as superstition. But it cannot admit of a doubt that, where there is a valid devise to a corporation, in trust for charitable purposes, unaffected by any question as to its validity because of superstition, the sovereign may interfere to enforce the execution of the trusts, either by changing the administrator, if the Corporation's dissolved, or, if not, by modifying or endorsing its franchises, provided the trust be not perverted and no wrong done to the beneficiaries. Where the trustee is a corporation no modification of its franchises or change in its name, while its identity remains, can arfect its rights to hold property devised to it for any purpose. Nor can a vaid estate, in trust, lapse or become forfeited by any misconduct in the trustee or inability in the corporation to execute it, if such existed. Charity never fails, and it is the right, as well as the duty of the sovereign, by its courts and public officers, as also by legislation (if needed), to have the charities properly administered. Now there is no complaint that the charity, so far as regards the primary and great object of the testator, is not properly administered; and it does not appear that there now is, or ever will be, any residue to apply to the secondary objects (the prosperity of the city, &c.). If that time should ever arrive the question whether the charity shall be so applied as to have the "effect to diminish the burden of taxation" on all the corporation, or only those within the former boundaries of the city, will have to be decided. The case of Soohon vs. The City (§ Casey) does not de

the city of Philadelphia.

Responsibility of Shipowners for the Negligence of Pilots Employed Under the Laws of New York—The Constitutionality of These Laws—An Important Question in Admiralty.

The Steamship China, Her Tuckle, &c., ve. Louis Walsh and Senjamin Curver—The respondents, as owners of the brig Kentucky, filed their libel in the District Court for the Southern district of New York against the steamship China, one of the Cunard packets, alleging that on the 16th of April, 1863, their brig being on a voyage from Cardenas to New York with a carge of sugars on freight, while a short distance outside of Sandy Hook, sailing at a rate not exceeding two miles an hour, the China, which was leaving port and sailing a rate of about six miles an hour, negligenty collided with the Kentucky and stove in her side in such a manner as to cause her speedily to sink, producing loss of vessel and destruction of cargo. The Pritish and North American Royal Mail Steam Packet Company intervened as claimants of the China, and in answers admitted the collision, but denied that it was in consequence of the negligence of the officers or crew of the steamer. It was also answered that the China was in charge of a polot, duly licensed under the laws of the State of New York who directed all the movements of the steamer proceding the collision, and it was claimed that the Cumpan) were, therefore, not responsible for

the loss and damage caused thereby. The decree was for the libeliants, and the Circuit Court affirmed it, helding that, while it seemed hard to subject the owners of the vessel to damages, for the fault of one in navigation of her, in respect to whom they had no choice, still, in the judgment of the law-making power and in the opinion of the Court, persons so employed are fitter persons for the discharge of the duties than if the master or owner had made the selection. Mr. Justice Nelson, in delivering the opinion, expressed the wish that the cause should be brought to this court for final adjudication, so that "the vexed question may definitely be settled." In support of their appeal the owners of the Clinia submit that they cannot be justly held responsible for the acts of the pilot, whom they had no power either to select or control, but to whom they were nevertheless compelled to cited on the point. But it was considered by Justice aurrender their ship; and a great number of English causes are Nelson below that if the cause was before an English tribunal judgment would have been for the respondents. Counsel Insist that all American cases that conflict with the English rule arose from the acts of pilots not taken by compulsion of law. Nor is the want of pecuniary responsibility of pilots a good reason for subjecting ships to liability for their conduct when the owners have no choice in their selection, nor right to direct them. There are no reasons of public convenience requiring owners to be responsible in those cases. The statutes of New Yors, it is insisted, do not violate the constitution of the United States, nor are they affected by the act of Congress of August, 1852, for the better security of passengers in steam vessels. The respondents urge that as the collision was between an American sea-going vessel and a foreign steamer, on the high seas, the municipal legislation of the State of New York is inadequate to the authority imputed to it in derogation of the admiralty jurisdiction conferred upon the

New York, Jan. 6, 1809.

To the Editor of the Herald:

I have read the article in your paper with the above title, and the cases stated therein are very mild ones. The public little know the horrors and sufferings occasioned by these arbitrary arresis, permitted by the law of this State. I could fill your paper with facts of hardships and sorrows brought about by these arrests. They are a disgrace to any civilized nation. I could send you truths that would make your blood run cold to read—truths of the miscry husbands, wives and children have endured merely to satisfy the malice or caprice of a creditor; and the creditor is not benefited one lota. Persons do not make their cases known to the public, as they do not desire to court notoriety; they suffer and mourn in silence. If you take up this cause, "the liberty of the citizen," you will be doing mankind a service beyond price—you will do a benevolent act and cause your name to be spoken of as one of the greatest of philanthropists. I can furnish you details and facts, names and actual circumstances for reference. Lot a public meeting be called, the truth ventilated and placed before the world; let the thousands that have realized this barbarity tell their own tale, and it will enlist the sympathy of every Christian heart; it will awaken an indignation among the populace that will wipe out every vestage of this barbarismi, this crueity, this outrageous law that gives a man the power to incarcerate his fellow man without cause and brings want and rain upon his family. Let the law be amended so that the poor debtor shall not be imprisoned for his poverty.

INTERESTING AND NOVEL WILL CASE IN ALABAMA.

New York Parties Interested.

[From the New Orleans Picayune, Jan. 1.]

We learn that a sult is now pending in the Chancery Court at Selma, Ala., to annul a will made under circumstances arising from the condition of affairs then existing under the late Confederate government. As the points involved are of a novel and interesting character, we give a short statement of the case:—It appears that during the late war Mr. John J. Crocheron, a wealthy planter and a bachelor, residing in Dallas county, Ala., was desirous of leaving the largest portion of his property, valued of over \$300,000, to his brother and sisters residing at the North. But fearing that, in case of the success of the Confederate cause, if he should make them legatees the property might become confiscated, he bequestied his entire estate, without reservation, to his nephew and niece, then residing in Alabama. A secret memorandum was made, however, directing how the estate should be divided among his Northern heirs, and which the nephew faithfuily promised he would execute and carry out. This memorandum was no part of the will, nor was it drawn up or signed by the testator, who died in October, 1864. The nephew and niece died soon afterwards, and the husband of the niece solemnily promised the nophew on his deathbed religiously to carry out his uncle's wishes and divide the property according to the secret memorandum. The husband, nowever, caused himself to be put

substituted in place of the legal heirs, and for their benefit. That the secret memorandum, making an entirely different disposition of the estate of the testator, after he had executed the will, is evidence of the true intention of the testator, and that the will was only intended as a devise in trust; that this memorandum being devoid of all form of law, is also null and void, from which it follows the devisor must be considered as having died intestate, and the heirs at law entitled to the property.

The case presents some very interesting and novel points, and as it is to be argued at the next February term, the decision will no doubt engage the attention of the legal profession.

INFORTANT RAILHOAD LAWSUIT IN GEORGIA

(From the Macon (Ga.) Telegraph, Jan 3.)

Teverday the Hon. Cariton B. Cole, Judge of the Superior Court of the Macon Circuit, at the sult of certain stockholders of the Southwestern Railroad, through their attorneys, the Messra, Nisbets & Jackson and Messra Whittle & Gustin, granted a bill of injunction against the Southwestern Railroad Company and the Central Railroad and Banking Company and the Central Railroad and Railroad Company recently transferred to them, or either of them, by the city of Savannah, and restraining said companies from all attempts to control, through said stock, the operations of the Atlantic and Guif Railroad, and the commercial and business interests of Central, Southern and Western Georgia, to be affected and controlled by the use of said stocks in the hands of the said companies.

This injunction, of course, will be fought in the court below, on a motion to dissolve, and then, go which way the cause may, appeal will be taken to the Supreme Court of the State. It is, probably, in respect to its scope and general consequence, the most important suit ever brought in Georgia, and in the course of the trial will array the best legal and formate talent in the State. The injunction restrains the purchase in question, on the grounds of a violation of the franchises of these companies, and of general public utility and convenience.

The following are the provisions of the law relative to the registry of American vessels introduced in the House by Mr. Ellot, of Maskachusetts.

Be it enacted, &c., That any vessel of five tons burden or upwards, not otherwise entitled to be registered as a vessel of the United States, shall at any time within two years from the passage of this act, if wholly owned by citizen or citizens of the act, if wholly owned by citizen or citizens of the be it ensered, ac., That any vasies of five tons burden or upwards, not otherwise entitled to be registered as a vassel of the United States, shall at any time within two years from the passage of this act, if wholly owned by citizen or citizen of the United States, be entitled to be registered as a vassel of the United States upon compliance with all the usual requirements preliminary to such registry in ordinary cases, excepting proof of American build, and on payment to the United States of a duty of eight dollars in coin for every ton of the legal United States tonnage thereof; and the Secretary of the Treasury shall make and enforce all needfur rules and regulations for the execution of this act: Provided that its provisions shall not apply to any vessel of the United States transferred to foreign owners during the rebellion, unless the Secretary of the Treasury shall, upon competent proof taken in writing under oath and satisfactory to him, certify that in his judgment such transferred to foreign owners for the benefit of or protection of any foreign power, which certificate, with the proofs in the cases, shall be duly filed in the Treasury Department, and if any person duly sworn anall withly swear falsely to any material fact he shall be deemed guilty of perjury, and on conviction thereof in any district or circuit court of the United States he shall be punished by a fine not exceeding \$5,000 or by morning the property of the Cases, or by both, in the discretion of the Court.

Protecting the First.—The Watton Club of Cayu-

both, in the discretion of the court.

PROTECTING THE FISH.—The Waiton Club of Cayuga county sued John Glass, of Genos, for fishing in Cayuga Lake during the spawning season. He was lined \$100 and forty dollars costs. It was shown on the triel that he had taken 800 trout, thus accurrying millions of fish. It may not be generally known that any one fishing during the spawning season, which in the case of trout lasts from October 15 to February 1, is liable to a fine of twenty-five dollars for each offence, or five dollars for each fish found in his possession, and that any one purchasing trout, pickerel or pike during the spawning season, and having such fish in his possession, is liable to a fine of five dollars for each fish.—Waune County (N. I.) Press. Jun. 5.

MILITARY NOTES.

The reception of the officers of the First and Third regiments of cavalry at Lieutenant Fleischel's house in Ninth street, on Monday evening last, was numer-ously attended and the company enjoyed to the ut-most the warm and hospitable welcome of their host and hostes.

drill shed worthy of it and the metropolis of the country.

His Excellency John T. Hoffman, Governor and Commander-in-Chief, having appointed Brigadier General William H. Morris Commissary General of Ordnance, vice Brigadier General George W. Palmer, resigned, Brigadier General Palmer is relieved from duty and will turn over to Brigadier General Morris all public property, &c., in his possession. Brigadier General Jacob S. Mosher, Surgeon General, is detailed for the special duty of taking charge of the Soldiers' Home, and all public property connected with that institution will be turned over to him. It will be seen from the following special order, dated January 1, 1869 (which, it may be remarked, should have been promulgated in New York on the 2d inst.), that the erraite orders of the late military administration of the State have not, as we anticipated, met the approval of the new Commander-inclief of the National Guard:—

Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1868, directing the First and Special order No. 218, series of 1

Major General Alexander Shaler, commanding on N. G. S. N. Y., will promulgate this order.

would seem to merit some attention;—
To THE EDITOR OF THE HERALD:—
As wholesome food is promotive of good health we trust the authorities of New York and Brooklyn will not disregard a very practical suggestion relating to our markets, for the practical benefit arising from any municipal ordinance depends on what influence it may exert upon the health and comfort of every citizen, "without regard to color or previous condition."

We do not propose to discuss whether the charges preferred against certain desiers in subsistence be true or faise. Our experience has been that, as a general thing, they are just in their weights and measures and correct in their dealings. But there is one most abominable practice in our markets—that of selling uncleaned poultry—the remedy for which lies with our city authorities, and to them does every man, woman and child, dealer or consumer, appeal for its abatement.

We ask that a law be passed that on and after a certain day, say ist of May, 1869, no poultry shall be sold without having been drawn. Drawn is simply to disembowel, or as the French say, desoutratiler, and the German, assections.

It is a fact that the peculiar delicate flavor of poultry is injured by leaving them undrawn only one night, for when dead digestion ceases and the "crop"

and intestines, filled with erinenting into a particular flavor to the flesh; and besides the gall and intestines become tender, and in drawing are frequently ruptured in the most careful hands, which fact never fails to be discovered at the dinner table, much to the annoyance and distasts of the host and hostes:

raptared in the most caretin hands, which isch never falls to be discovered at the dinner table, much to the annoyance and distaste of the host and hostess and their guests. That common intestinal flavor known to city poultry, and supposed by many to be the true flavor of that article of food, is in reality a foul flavor rather than the flavor of a fowl. There is no more reason why turkeys and ducks should be sold in that condition than a famb or pig; because these last are quartered it is not the only reason why they are cleaned before being offered in our markets as food, and the same reasons should apply to turkeys, dnoks, chickens, &c.

The dealer tells us that his poultry will keep longer and better if drawn, but that he could not flad a purebaser, as drawn poultry is looked on with suspicion. The writer can testify to this lack of good taste, for about a year ago he found a box of drawn turkeys in Washington market (shipped from Boston, where they have some wholesome market regulations), six of which he bought at tencents less than the market price, as no one could be found disposed to invest in "such trash as a drawn after they were in excellent keeping and condition. Having briefly shown the advantages and necessity of a law touching the good health and appetite of a teeming population, we sincerely trust that the honorable Common Council of these respective cities will not be long in making and enforcing this much needed and most wholesome regulation. CITIZEN.

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tumph.

tumph.

tumph.

tumph.

tumph.

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tumph.

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